

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION

CONSTRUCTION DIVISION MEMORANDUM

GENERAL SUBJECT: UTILIZATION OF DBE/MBE/WBEs

NUMBER: CD-2000-9

SPECIFIC SUBJECT: FORMS AND REQUIREMENTS ON FEDERAL
AID AND STATE FUNDED CONTRACTS

DATE: JANUARY 18, 2000

Original w/Signature on file in Construction Division

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CONSTRUCTION ENGINEER

DIRECTED TO - DISTRICT ADMINISTRATORS

In order to insure uniformity of application, the guidelines established herein concerning the administration of contract requirements involving DBE/MBE/WBE participation on contracts are being emphasized:

A. FORM C-63

The C-63 includes the cumulative total to date of the allowable and disallowable participation credit to be reported; the amount paid, and the title of the individual completing the form with signature, FORM C-63 is executed monthly and at semifinal and final estimate time.

The instructions on the reverse side include: correcting the description of the participants in the program and "Type of Work"; clarifying the "amounts paid" and submittal requirements; defining "the Date of Execution" of the Contract by VDOT; "Allowable Credit this Month"; "Allowable Credit to Date"; "Disallowed Credit This Month"; and "Disallowed Credit To Date". The items "Allowable Credit of Contract or Agreement" and "Total Cost to Date" remain. All other items were eliminated or changed as aforementioned.

When reporting "amounts paid" to certified DBE/MBE/WBEs, which are to be claimed as participation credit, retainage held by the Contractor is not to be included.

DBE/MBE/WBE names shown on FORM C-63 must be checked to ensure that their certification was current at the time the project was advertised for all State funded contracts. The names and certification numbers of DBE firms shall be exactly as shown on the Department's latest list of certified DBEs, and their certification date shall be in accordance with Special Provision 110.04, issued October 1, 1999, on all Federal-aid contracts.

There must be an indication made that the information is being reported by the prime Contractor or a subcontractor. The Contractor shall follow the procedures below when reporting disallowed participation credit:

1. Reporting disallowed credit AFTER the credit has been previously reported as allowable: Once the Contractor has been notified in writing that credit has been disallowed, the Contractor shall report this disallowance on a Form C-63 submitted with the next monthly estimate. The disallowed credit should be reflected in the change in allowable credit to date, disallowed credit this month, and disallowed credit to date.

2. Reporting disallowed credit BEFORE the credit is reported on Form C-63: Upon written notification of disallowed credit, the Contractor shall ensure that the disallowance is accurately reflected on the Form C-63 submitted by the following estimate date. The dollar amount disallowed should be shown in the disallowed credit this month and disallowed credit to date figures.

The District Equal Opportunity Manager (DEOM) must ensure all forms are properly completed before forwarding to the Construction Division. [Form C-63A](#) shall continue to be submitted in accordance with established policies.

If the Contractor fails to submit properly executed forms and/or refuses to re-submit corrected ones, the DEOM will make the appropriate corrections, forward the corrected form to the Central Office, and may recommend that the approval of the Contractor's monthly estimate for payment be delayed until such time as corrected documentation has been received and approved.

DEFINITION:

Minority-owned Firms: All minority-owned firms, whether DBE or MBE.

Female-owned Firms: All female-owned firms whether DBE or WBE, except for minority female-owned firms where credit is being claimed under the minority owned designation.

Form C-63 must be submitted within the time specified, and should be compared with the DBE Schedule ([C-13](#) or letter format, as applicable) and [Form C-111](#), to insure compliance. Failure to submit this form may result in delaying approval of the monthly estimate for payment.

Form C-63s submitted for construction or maintenance contracts should be checked at the Residency level for accuracy (dollar amounts of work completed) and that 63A's are signed. Then transmitted to the District Equal Opportunity Manager, and then to the Construction Division no later than the 20th day of the month following the period covered by the report.

On those projects nearing completion, the Contractor will submit Form C-63 and appropriate Form C-63A(s) marked "Semi-Final" within 20 days of the submission of the last regular estimate. This will be accompanied by a letter of certification, signed by both the prime Contractor and appropriate DBE, indicating the amount, including retainage, which remains to be paid.

Within 30 days of the payment of the final estimate, the Contractor will submit Form C-63 and attendant [Form C-63A](#) marked "Final". These are to be compared with the semi-final submission to ensure prompt and proper payment has been made to the DBE/MBE/WBEs, and to make certain that the Contractor has fully complied with the requirements.

B. SUBSTITUTION OF DBE SUBCONTRACTORS

If the District, after appropriate review of documentation submitted by the Contractor, approves such substitutions, a copy of the release letter with the pertinent documentation justifying the release is to be sent to the Construction Division, Attn: Construction Engineer, under a cover letter indicating the following:

1. Job Designation, State project number and Federal-aid project number.
2. Name of DBE and dollar/credit amount as shown on original [Form C-111](#), as applicable (attach copies).
3. Name of substitute DBE and amount of new subcontract (if not available at time of release, to be furnished as soon as possible).
4. New [Form C-111](#) (if not available at time of release, to be furnished as soon as possible).

C. DBE PROGRESS SCHEDULE

Special Provision for Section 110.04 requires the Contractor to submit a schedule showing the DBE participation, as a percentage of the total contract value, which shall occur at the completion of each major component of work shown on the Contractor's progress schedule or at the quarter points (one fourth, one half, etc.) of the original contract dollar amount, whichever is appropriate. On contracts containing either of the above Special Provisions, the Department can only require the submission of a schedule showing participation at the quarter points. The Contractor, however, can be given the option to submit the schedule showing participation at the completion of each component should it be deemed advantageous.

1. Projects requiring a progress schedule - Due 30 days after the date of the Notice to Proceed and prior to the first estimate. Form [C-13](#) is to be modified in the following manner to indicate DBE participation:
 - (a) Type "DBE Progress Schedule" at the top.
 - (b) "% Progress" by major component shall indicate the percentage of DBE participation to be obtained at the end of that particular phase as a percentage of the total contract value.
 - (c) "Dollar Value By Component" refers to the dollar value of the DBE's work only, which may or may not be the same as that shown on the contract.
 - (d) "% Total Progress" refers to the portion of DBE work achieved at that point as a percentage of the total amount of DBE work required to meet 100% of the participation requirement.
 - (e) "Total Contract Value" is the total dollar amount of all work to be performed by DBEs on the contract.
 - (f) All dollar amounts and percentages apply to DBE work only, and may or may not be the same as those amounts shown for those particular items on the contract.
2. Projects not requiring a progress schedule - Due prior to the Contractor beginning operations. It is suggested that, for the sake of uniformity, the format as used in Item 1 (a) be utilized with the "Contract Time" modified to show the quarter points of the contract amount. Alternately, a letter format may be used, and it must show the specific work to be performed each quarter, the DBE work for that quarter as a percentage, and that quarter's DBE work as a percentage of that required to achieve 100 % of the participation required.

The requirement for itemization contained in the Special Provision for Section 110.04 dated October, 1999 will be met by the submission of [Form C-111](#) and the evidence of a binding agreement by [Form C-112](#).

These schedules are to be checked at the Residency level to ensure their accuracy and that they represent a realistic time frame for achieving the required participation and are then forwarded to the DEOM for approval. Failure to submit these schedules within the required time frame may result in the withholding of the Contractor's first and all succeeding estimates until such schedules are submitted.

These schedules are to be checked at the Residency level to ensure their accuracy and that they represent a realistic time frame for achieving the required participation and are then forwarded to the DEOM for approval. Failure to submit these schedules within the required time frame may result in the withholding of the Contractor's first and all succeeding estimates until such schedules are submitted.

D. SUBMISSION OF FORM C-61

In accordance with Section 110.04 of the Specifications, within 14 days after the opening of bids in accordance with the requirements of Section 102.12, the apparent low bidder, as read at the bid opening, shall submit to the Department a fully executed [Form C-61](#) indicating how the applicable potential achievements will be met, however:

- (1) The Department will no longer require the submission of [Form C-61](#) for projects on which the Contractor will not achieve participation. We still encourage the Contractor to submit the [Form C-61](#) if he intends to utilize MBE/WBE Contractors for reporting purposes.
- (2) The Department no longer reserves the right to not award the contract to any apparent low bidder who fails to submit the required information within 14 days after the bid opening.

Your attention to the instructions herein will be appreciated, and will result in assuring more uniform administration of DBE contract requirements, policies, and procedures.

GCW/HD: rg